

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

HAL MOORE

Plaintiff,

vs.

ANITA MYERS

Defendant.

CASE NO. 09cv2314 JM(BLM)

ORDER REMANDING ACTION TO  
STATE COURT; DENYING  
MOTION TO PROCEED IN FORMA  
PAUPERIS

On May 11, 2009 Plaintiff Hal Moore commenced an unlawful detainer action against Anita Myers in state court, seeking damages in an amount less than \$10,000 for Defendant's alleged failure to pay rent. On October 19, 2009 Defendant filed a Notice of Removal and an application to proceed in forma pauperis. The Notice of Removal does not identify any basis for the court to exercise either diversity or federal question jurisdiction.

The court sua sponte remands this action to state court. See Maniar v. FDIC, 979 F.2d 782, 785 (9<sup>th</sup> Cir. 1992) (the court may sua sponte remand an action to state court). Federal courts are courts of limited jurisdiction. "Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause." Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 94 (1998) (quoting Ex parte McCordle, 74 U.S. (7 Wall.) 506, 514, 19 L.Ed. 264 (1868)).

1 Accordingly, federal courts are under a continuing duty to confirm their jurisdictional  
2 power and are even “obliged to inquire sua sponte whenever a doubt arises as to [its]  
3 existence. . . .” Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle, 429 U.S. 274, 278  
4 (1977) (citations omitted).

5 The state court complaint alleges a single state law claim that Defendant failed  
6 to pay her monthly rent. Neither the complaint nor the Notice of Removal identifies  
7 any violation of federal law. Consequently, the court concludes that it lacks subject  
8 matter jurisdiction under either 28 U.S.C. §§1331 or 1332 and remands this matter to  
9 state court. See Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987) (“Only state-  
10 court actions that originally could have been filed in federal court may be removed to  
11 federal court by the defendant.”).

12 In sum, the court sua sponte remands this action to the Superior Court for the  
13 County of San Diego and denies the motion to proceed in forma pauperis as moot.

14 **IT IS SO ORDERED.**

15 DATED: October 20, 2009



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17 Hon. Jeffrey T. Miller  
18 United States District Judge

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cc: All parties